

REMARKS

Claims 1 to 29 were pending in the application at the time of examination. Claims 1, 2, 4, 6 to 12, 14, to 18, 20 to 24, and 26 to 29 stand rejected as anticipated. Claims 3, 5, 13, 19, and 25 stand rejected as obvious.

Applicants note that the assignee for the above application has transferred responsibility for the application to the undersigned attorney. Please direct all further correspondence in the above application to the undersigned attorney. A revocation of attorney and appointment of new attorney was filed on March 21, 2005.

Applicants have amended the description to correct grammatical errors.

Claims 1, 11, 17, 23, and 29 are amended. Applicants note that no 35 U.S.C. § 112 rejections were given for the claims. Accordingly, the Examiner considered the claims to satisfy the § 112 requirements. Thus, the amendments to the claims correct informalities only and do not affect the patentability of the claims.

Claims 1, 11, 17, 23, and 29 stand rejected under 35 U.S.C. § 102(e) as being anticipated by U.S. Patent No. 6,,789,525, hereinafter referred to as Pedrizetti. In the rejection, Col. 2, lines 36 to 64; Fig. 7; Col. 1, lines 33-43; Col. 5, lines 5 to 11; Col. 4, lines 51 to 67; Col. 2, lines 1 to 5; and Col. 6 lines 13 to 24 were cited as teaching exactly the invention recited in each of the rejected claims.

Applicants respectfully traverse the anticipation rejection of Claim 1. Applicants note that the rejection combines portions of the prior art, Col. 1, lines 33 to 43; a description of a basic computer system, Col. 2, lines 36 to 64; elements from Fig. 7 that is described as "a flow chart showing a push-type implementation"; a description of part of the "steps taken by a client to evaluate whether there is an update

available on the server for items in the client's master list" (Col. 5, lines 5 to 11); and then one specific step in that evaluation.

The fact that the rejection has to jump around in the reference and pick and chose pieces of the reference is a modification of the reference. Modifying a reference must be justified to support an obviousness rejection and so cannot be used to support an anticipation rejection.

The rejection fails to cite any basis for making the selections and reordering the flow of the operations described in the reference to obtain the sequence described above that was used in the rjection. Thus, the rejection itself shows that the reference fails to anticipate Applicant's invention as recited in Claim 1.

Moreover, the rejection fails to identify any teaching of "code space" or "data space." A search of the patent available on the USPTO web site failed to find either phrase. Moreover, the rejection failed to cite any teaching of such spaces that were segmented.

To support an anticipation rejection, the MPEP requires:

TO ANTICIPATE A CLAIM, THE REFERENCE MUST TEACH EVERY ELEMENT OF THE CLAIM

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." . . . "The identical invention must be shown in as complete detail as is contained in the . . . claim."

MPEP § 2131, Eighth Ed., Rev. 2, p. 2100-73, (May 2004).

Since the rejection picked and reordered elements from the reference, and the rejection failed to cite any teaching of a data space and segmented code spaces and operations associated with those specific spaces, as recited in Claim 1, the rejection failed to show that the reference taught "The

identical invention . . . in as complete detail as is contained in the . . . claim." Applicants request reconsideration and withdrawal of the anticipation rejection of Claim 1.

Claims 2, 4, and 6 to 10 depend from Claim 1 and so distinguish over Pedrizetti for at least the same reasons as Claim 1. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 2, 4, and 6 to 10.

Claim 11 is a program storage device corresponding to method Claim 1 and thus includes substantially the same distinctive feature as Claim 11. Accordingly, the above comments with respect to Claim 1 are incorporated herein by reference for Claim 11. Applicants request reconsideration and withdrawal of the anticipation rejection Claim 11.

Claims 12 and 14 to 16 depend from Claim 11 and so distinguish over Pedrizetti for at least the same reasons as Claim 11. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 12 and 14 to 16.

Claim 17 is a means-plus-function claim corresponding to method Claim 1 and thus includes substantially the same distinctive feature as Claim 1. Accordingly, the above comments with respect to Claim 1 are incorporated herein by reference for Claim 17. Applicants request reconsideration and withdrawal of the anticipation rejection of Claim 17.

Claims 18, 21 and 22 depend from Claim 17 and so distinguish over Pedrizetti for at least the same reasons as Claim 17. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 18, 21 and 22.

With respect to the anticipation rejection of Claim 23, the above comments with respect to Claim 1 are incorporated herein by reference. In addition, Claim 23 recites that first

and second data spaces are also segmented. Applicants request reconsideration and withdrawal of the anticipation rejection of Claim 23.

Claims 24 and 26 to 28 depend from Claim 23 and so distinguish over Pedrizetti for at least the same reasons as Claim 23. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of each of Claims 24 and 26 to 28.

With respect to Claim 29, Claim 29 includes elements similar to those described above with respect to Claim 1 and so the comments with respect to Claim 1 are incorporated herein by reference. Applicants respectfully request reconsideration and withdrawal of the anticipation rejection of Claim 29.

Claims 3, 13, 19 and 25 stand rejected under 35 U.S.C. § 103 as being unpatentable over Pedrizetti in view of U.S. Patent No. 5,930,504, hereinafter referred to as Gabel. Assuming the combination of references is correct, the additional material cited in Gabel fails to overcome the deficiencies of the primary reference as noted above with respect to the independent claims from which these claims depend. Therefore, each of Claims 3, 13, 19 and 25 distinguishes over the combination of references for at least the same reasons as the independent claim from which it depends. Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of each of Claims 3, 13, 19 and 25.

Claim 5 stands rejected under 35 U.S.C. § 103 as being unpatentable over Pedrizetti in view of U.S. Patent No. 5,930,504, hereinafter referred to as Gabel. Assuming the combination of references is correct, the additional material cited in Gabel fails to overcome the deficiencies of the primary reference as noted above with respect to Claim 1 from which Claim 5 depends. Therefore, Claim 5 distinguishes over the combination of references for at least the same reasons as

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Claim 1. Applicants respectfully request reconsideration and withdrawal of the obviousness rejection of Claim 5.

Claims 1 to 29 remain in the application. Claims 1, 11, 17, 23, and 29 are amended. For the foregoing reasons, Applicant(s) respectfully request allowance of all pending claims. If the Examiner has any questions relating to the above, the Examiner is respectfully requested to telephone the undersigned Attorney for Applicant(s).

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, on May 10, 2005.



Attorney for Applicant(s)

May 10, 2005

Date of Signature

Respectfully submitted,



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